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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,419

11/19/2003

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EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/715,419

**Applicant(s)**

CHOI, SANG-PHIL

**Examiner**

Hanh V. Tran

**Art Unit**

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-21 and 26-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-21, 26-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/29/2007 has been entered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is an inconsistency between the language in the preamble of claim 30 and the limitation in claim 31, thereby making the scope of claim 31 unclear. The preamble clearly indicates that a subcombination is being claimed, i.e., "a tray for a refrigerator". This language would lead the examiner to believe that the applicant intends to claim only the subcombination of a tray, the refrigerator is only functionally recited. The problem arises when the refrigerator is being recited in claim 31. The examiner cannot be sure if applicant's intent is to claim merely the tray or the tray in combination with the refrigerator. Applicant is required to clarify what the claim is intended to be drawn to, i.e., either the tray alone or the tray in combination with the refrigerator, and the language of the claim is amended to be

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consistent with the intent. For the purpose of this examiner, the examiner is considering the claims are drawn to the combination of a tray and refrigerator.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4, 7-21, and 36-35 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 2,828,178 to Dahlgren.

Dahlgren discloses a refrigerator apparatus comprising all the elements recited in the above listed claims including a boss 11 provided on an inner surface of a refrigerator door, a tray comprising a press plate 12, a boss provided on an inner surface of a refrigerator door 1 and configured to be covered by a cover, the press plate 12 having a first end configured to be rotatably coupled to the boss and a second end which is opposite the first end and configured to rotate about the boss in a direction toward the inner surface of the door in response to an elastic force applied at the first end, Figs 3-4, a rotatably shaft 18 configured to be rotatably coupled to the boss 11, an elastic member 15 mounted thereon at the first end of the press plate, a stopper 16 provided in the mounting recess and configured to regulate a turning degree of the plate 12, wherein a tray recess is formed in the inner surface of the refrigerator which corresponds to the press plate, the tray recess is larger than the plate 12 and the plate is configured to be positioned within the tray recess, a storage space is formed between

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the plate and the inner surface of the door, and wherein the storage space is adjustable to have a plurality of capacity between a fully open and fully closed position of the plate based on the size of an item stored in the receiving space as the second end of the press plate rotates about the first end of the press plate so as to accommodate and secure item to be stored therein; wherein the storage space is defined by the press plate.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlgren.

Dahlgren discloses all the elements as discussed above except for the plate comprises a plurality of wires connected to one another, and the plate is made of a transparent synthetic resin material.

In regard to the plate comprises a plurality of wires connected to one another, since it is well known in the art to provide the inner surface of a refrigerator door with a

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wire shelf or wire tray for supporting articles thereon, it would have been obvious and well within the level of one skill in the art to modify the plate of Dahlgren by having the plate comprises a plurality of wires connected to one another. In regard to the plate is made of a transparent synthetic resin material, since it is well known in the art to provide elements of a refrigerator tray or shelf with a transparent synthetic resin material for viewing purpose, it would have been obvious and well within the level of one skill in the art to modify the structure of Dahlgren by having the plate being made of a transparent synthetic resin material for viewing purpose.

#### ***Response to Arguments***

9. Applicant's arguments with respect to the bracket 13 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's arguments filed 3/29/2007 have been fully considered but they are not persuasive. In response to applicant's argument on page 12 that "Dahlgren neither disclose nor suggests that the elastic force generated by the spring 15 causes any storage items positions on the shelf to be positively retained between the guard and the shelf", the examiner takes the position that (1) the item is not positively recited in the claim, and (2) even if the item is positively recited, Dahlgren still meets the claimed limitation of the item being "positively retained between the mounting surface and the press plate", since the press plate provides a guard to prevent an item stored on the shelf from falling off the shelf, as long as the item is still positioned on the shelf 12, the item is still being positively retained between the mounting surface and the press plate.

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There is nothing in the claimed language which would require the press plate to constantly exerting a force on the item.

11. In response to applicant's argument on page 13, paragraphs #1 and 2 that if the press plate 12 of Dahlgren was left in the partially open position for storage of a larger item, then the door could no longer be fully closed due to interference from the press plate, the examiner takes the position that (1) it is not clear why the door could no longer be fully closed, (2) the claimed language recited the storage space being adjustable to have a plurality of capacities between a fully open and a fully closed position of the press plate, in this instant, if a first stored item is of a size such that the storage space is just a fraction larger than the fully closed position of the press plate, and a second stored item is of a size just a fraction larger than the first stored item such that the storage space is a fraction larger than the storage space of the first stored item, this would meet the claimed limitation of the storage space being adjustable to have a plurality of capacities between a fully open and a fully closed position of the press plate. Even if there is interference from the guard preventing the door from closing properly by abutting against a shelf, it is well known in the art that shelves in the main storage compartments are vertically adjustable.

12. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the size of an item to be stored in the storage space) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

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the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Hanh V. Tran**  
**Art Unit 3637**

HVT

June 11, 2007